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C O N F I D E N T I A L SECTION 01 OF 02 BRUSSELS 000701

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E.O. 12958: DECL: 05/17/2019
TAGS: [PREL](#) [EUN](#) [HR](#) [SI](#)
SUBJECT: SLOVENE MFA DIRECTOR GENERAL ON THE BORDER DISPUTE
WITH CROATIA

REF: STATE 043586

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Classified By: CDA Christopher Murray for reasons 1.4 (b) and (d).

¶1. (C/NF) Summary: In a meeting with Charge in Brussels on May 18, Slovene MFA Director General for European Affairs and Coordinator for Croatia Iztok Mirosic briefed USEU on Slovenia's response to the latest proposal by EU Enlargement Commissioner Olli Rehn to help solve Slovenia's bilateral border dispute with Croatia. Mirosic reported that Slovenia had accepted the Rehn proposal, but would seek modifications related to the scope of arbitration and applicable law. According to Mirosic, should these compromises be incorporated into the proposal, the government of Slovenia would stand a far better chance of convincing its parliament to support the Rehn initiative and defeat an opposition-led referendum effort, inevitable to Mirosic. Describing the political angle of the proposal as crucial, Mirosic asserted that Rehn's response - and whether he showed any flexibility - would be pivotal to moving the process forward. Listening intently as the CDA covered the reftel talking points, Mirosic responded quite favorably to the U.S. supporting any process that both sides can agree upon. Other observers to include EU Council Director General for External Relations and Politico-Military Affairs Robert Cooper suggest a low key, technocratic approach to the matter. End Summary.

What Slovenia Wants

¶2. (C/NF) In Brussels on May 18 to brief foreign ministers assembled for their monthly meeting (GAERC) about the status of Slovenia's ongoing border dispute with neighboring Croatia, Slovene MFA Director General for European Affairs and Coordinator for Croatia Iztok Mirosic also briefed USEU Charge on Slovenia's response to the latest proposal by EU Enlargement Commissioner Rehn to help solve the matter. Mirosic reported that Slovenia had accepted the Rehn proposal, but would seek modifications related to the scope of arbitration and applicable law. Mirosic said that language related to territorial contact with the high seas would need to be inserted into Article 3(1)(a). Article 4, which deals with applicable law, would add the phrase "ex aequa et bono." Article 4 would also include additional language, "...and equity and the principle of good neighborly relations, taking into account also vital interests of both parties and all relevant circumstances." According to Mirosic, these modifications were essential to "balancing"

the current proposal.

Why Slovenia Wants This

¶3. (C/NF) Mirosic reported that without these changes, Slovenia "would be saying we are not entitled to these areas - we cannot say this at home." According to Mirosic, should these compromises be incorporated into the proposal, the government of Slovenia would stand a far better chance of convincing parliament to support the Rehn initiative and defeating an opposition-led referendum effort, which Mirosic said was inevitable. Mirosic also said that Slovenia did not consider Rehn's offer "take it or leave it" and stressed that the political angle was crucial. He asserted that Rehn's response - and whether he showed any flexibility - would be pivotal to moving the process forward. If Slovenia's suggested changes were not incorporated, he added, then the achieving the political consensus within Slovenia necessary to allow an international body to arbitrate the matter would not be realistic and Slovenia would not be able to ratify Croatia's EU accession.

¶4. (C/NF) Mirosic said that if Slovenia's concerns were registered and the government could show that it had done everything possible to guarantee that Slovenia's interests had been taken into account during the process, then a majority of Slovenians would accept the plan, regardless of the outcome of the arbitration. Mirosic suggested that if the matter could be put to arbitration, then tensions between the two countries would be lessened greatly and accession negotiations could proceed.

Other Concerns Moving Forward

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¶5. (C/NF) Mirosic told the Charge that Slovenia was very concerned about Croatian PM Sanader's recent comments that while the Slovenian people were "good," their leadership was "bad." While acknowledging that these comments were most likely due to upcoming Croatian elections, Mirosic said that such threatening language was reminiscent of that used by Slobodan Milosovic before the breakup of the former Yugoslavia. Mirosic reported that despite such rhetoric, Slovenian PM Pahor has tried to be restrained so as not to interfere in Croatia's elections.

¶6. (C/NF) Mirosic listened intently as the Charge covered with him the reftal talking points. While responding quite favorably to the U.S. supporting any process that both sides could agree upon, Mirosic did not offer any suggestions as to how the U.S. might be able to help move things forward. He further claimed that it was Croatia, not Slovenia that was linking the border demarcation issue to the accession process. He warned that if Croatia acceded to the EU, it would use its hardball negotiating tactics on possible future border issues with Serbia, Montenegro, and Bosnia, if they were to be nearing EU membership.

Other Views of the Stalemate

¶7. (C/NF) On May 15, Charge engaged EU Council Director General for External Relations and Politico-Military Affairs Robert Cooper on the Slovenia-Croatia border problem. Cooper understood that the Slovenes had presented the Rehn plan to their Parliament, which had responded with an answer of "yes, but." Members of the Parliament raised some questions and set some conditions with respect to preferred terms of reference. Cooper said he was not sure what the significance was of those requested changes. He also said that he did not think these were killer amendments. The negotiations may not have ended, Cooper continued, as the Slovenes actions seemed to him, "like a step toward, not a step away. But the

overall problem, Cooper observed, is that Parliamentary involvement makes for a problem. The border resolution effort, he added, seems to be making progress, but slowly.

18. (C/NF) Cooper went on to comment that the ICTY Chief Prosecutor's remarks about Croatia are disturbing. Not in the sense that the Croats are lying, but they are revealing something about their attitude toward the rule of law. Cooper suggested that both sides be told, "To both of you, Olli Rehn is offering you a solution. You should take it." Cooper said the approach should be low key and technocratic, emphasizing that binding arbitration is a serious decision which they are bound to accept. This is the way the terms of reference matter a great deal. Cooper finally observed that the arbitration could take a year, which would be enough time to get it out of both sides' newspapers.

19. (C/NF) Also on May 15, Charge raised the issue with Czech EU Presidency Permrep Milena Vicenova. She said she was originally sympathetic to the Croats, but then Czech FM Schwarzenberg had convinced her of the importance of the Slovene access to international waters issue. She said the Slovenes had been unusually aggressive in EU meetings regarding the border. Vicenova observed that the Croats had accepted the Rehn proposal. She ended the conversation by saying that the Western Balkans are the subject of greatest disappointment to them during their EU presidency.

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